Calendar No. 67

98TH CONGRESS, 1st Session | SENATE | REPORT No. 98-33

EXTENSION OF THE DEFENSE PRODUCTION ACT

REPORT

OF THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 855

MARCH 23 (legislative day, MARCH 21), 1983.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
11-011 O WASHINGTON: 1983

S243-2

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Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs, submitted the following

REPORT

[To accompany S. 855]

The Committee on Banking, Housing, and Urban Affairs, to which was referred S. 855, a bill to extend the Defense Production Act of 1950, as amended, having considered the same, reports favorably thereon.

HISTORY OF THE LEGISLATION

On March 18, 1983, Senator Trible introduced S. 855, which was referred to the Committee on Banking, Housing, and Urban Affairs.

On March 21, 1983, the Committee held a hearing on S. 855 at which witnesses testifying on behalf of the Administration expressed support for a five year extension of the Act. The Committee determined that the extension of the Defense Production Act of 1950 is necessary for ongoing defense contracting and preparedness programs and the bill was therefore reported.

PURPOSE OF THE LEGISLATION

S. 855, the Defense Production Act Extension of 1983, extends the expiring titles of the Defense Production Act of 1950 for a period of 5 years from the present termination date of March 31, 1983 until September 30, 1988. These titles maintain the national defense industrial production base in peacetime, prepare mobilization programs and provide a pool of trained manpower for war production management.

Titles I, III and the non-permanent sections of Titles VII of the Defense Production Act (DPA) have regularly been renewed by the Congress. Title I provides authorizations for the Defense Priorities System, an energy priorities system and for the management of these systems. Title III authorizes the President to guarantee loans and to

take other financial measures necessary to expand productive capacity and supply in the interest of national defense. Title VII prohibits discrimination against small business firms in achieving the objectives of the DPA, provides for the National Defense Executive Reserve, establishes other authorities regarding personnel carrying out programs under the Act and provides for oversight of the programs under the Act. The permanent provisions of Title VII authorize the promulgation of cost accounting standards to cover government contractors and permit the President to grant antitrust immunity to industrial defense purposes at the request of the President.

The remaining provisions of the Act, contained in Titles II, IV, V and VI, have not been renewed since the period following the end of the Korean War and are not affected by this extension of the Act. These standby provisions provide wartime authority for condemnation, price and wage stabilization, the settlement of labor disputes and control of consumer and real estate credit.

The Need for and Explanation of the Legislation

Extension of the Defense Production Act authorities

The Defense Production Act is the sole statutory vehicle for insuring that the Nation's industrial base is kept in a state of readiness in peacetime so that new programs may be initiated and standby programs may be expanded in the event of mobilization. The preparedness functions served by the DPA are evident in the many programs authorized by the Act.

As discussed above, the Defense Production Act provides authority for the Defense Priorities System, the Defense Materials System and the energy equipment production priorities system. Through these systems the President is empowered to require expedited performance on qualifying national defense or domestic energy contracts and to allocate scarce and critical materials to insure a high state or preparedness and an orderly mobilization of industrial and material resources in the event of national defense emergencies.

The Defense Production Act also provides authority to quarantee and make loans, or to make purchase commitments, and under certain circumstances to develop productive capacity in special industries where it may be required for national defense purposes.

Regulatory Impact Statement

In accordance with paragraph 11(b) of Rule XXI of the Standing Rules of the Senate, the Committee has evaluated the regulatory impact and the paperwork impact which would be incurred by carrying out this bill.

This bill does not create any new regulatory requirements within the meaning of rule XXIX(5)a of the Rules of the Senate. It merely extends the authority for existing regulations issued for the administration of title I priorities and allocation systems and for reporting requirements under section 705.

Existing regulatory impact, extended by this legislation, is significant. Any defense contractor or potential defense contractor may

be required to perform government contracts in preference to commercial work under title I. Producers of "controlled materials," regardless of whether they hold defense contracts, are also required to set-aside a portion of their production under the Defense Materials System authorized by title I.

Additionally, disclosure of information on production capabilities relevant to the national defense can be required by the President under authorities granted in section 705.

FEDERAL EMERGENCY MANAGEMENT AGENCY,
Washington, D.C.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Defense Production Act of 1950 is the cornerstone of the present legal structure for ensuring that we are prepared to meet national emergencies requiring the mobilization of the Nation's industrial and material resources. Its continuation is essential to the national defense. Enclosure A is proposed legislation which would extend the Defense Production Act for an additional 5 years.

Title I of the Defense Production Act provides authority to require priority treatment for vital defense contracts as well as authority to allocate materials and facilities for defense programs. It is under these authorities that the Departments of Commerce, Energy, and Transportation have established specific resource priority and allocation systems. Failure to extend the Act will lead to serve and costly impacts on our weapons acquisitions and defense preparedness programs. See Enclosure B.

A 5-year extension will provide orderly programming for expansion of essential industrial capacity and resource supply projects which require several years for completion. In addition, the Administration has authority in Fiscal Year 1983 and is seeking funding in Fiscal Year 1984 to carry out the purposes of Title III of the Act. This funding will help to expand productive capacity and supply beyond levels needed to meet civilian demand in order to reduce the time required for full mobilization.

The Office of Management and Budget advises that there is no objection to the submission of this proposal for the consideration of the Congress and that its adoption would be in accord with the program of the President.

Sincerely,

GEORGE JETT,
General Counsel.

IMPACTS OF THE EXPIRATION OF THE DEFENSE PRODUCTION ACT

HIGHEST NATIONAL URGENCY PRIORITY RATED WEAPONS PROGRAMS

Approximately 25 percent of defense procurements receive the highest national urgency DX priority ratings. These programs could experience delay and setbacks in production

schedules due to the slower delivery of essential materials and equipment. DX programs can include such high priority projects as the B–1 bomber, Trident submarine, the MX missile program, command-control and communications systems, and the Abrams tank. The negative impact of the loss of priorities support for these weapon systems can severely affect our strategic posture.

DEFENSE PRIORITY RATED PROGRAMS

All other defense procurements receive DO priority ratings to help ensure the timely delivery of the goods and equipment and early completion of production schedules. Priorities support is extended for all military and atomic energy production and construction, foreign military assistance, and space projects. Expiration of the Act could stretch out delivery dates on all these programs. For example the resulting slowdown in the delivery on foreign military assistance could negatively impact on our relations with friends and allies.

DEPLOYMENT OF MILITARY FORCES

The deployment of military forces in a major emergency would be severely hindered because the necessary transportation assets are made available for defense use under DP Act, Title I authorities. The Civil Reserve Air Fleet (CRAF), the Contingency Response Plan (CORE), and other rapid deployment plans and programs would be unable to operate without these authorities, and consequently the mobility of military forces is severely hampered.

INCREASED PROCUREMENT COSTS

The lapse in DP Act extension or its termination would add to the costs of defense procurements because of the additional risk to the contractors in obtaining critical and scarce materials and equipment. Contracts let without priorities support could have difficulty in obtaining materials and equipment in future years especially if the economy heats up again as was the case in the late 1970's.

TRANSPORTATION STRIKES

Title I of the DP Act is the only Presidential authority (Section 101(b)) available to prioritize transport movements in the civil economy in the event of a rail or truckers' strike. This authority was used three times in the early 1970's and its use was planned in the recent air traffic controller and railroad strikes to ensure the movement of defense goods and personnel. Its absence will severely limit the President's ability to alleviate the impacts of a national transportation strike.

MACHINE TOOL TRIGGER ORDER PROGRAM (MTTOP)

The basic authority for the establishment and maintenance of the Machine Tool Trigger Order Program (MTTOP) is Title III of the DP Act. Without this authority the program would have to be terminated and existing standby purchase agreements would have to be cancelled. To date, thirty-five companies have been invited to participate and approximately one-third of these standby agreements have been signed (16 agreements) covering 940 items with contract values of $222 million. The program is a government/industry cooperative effort to cut mobilization lead-times by speeding delivery of machine tools essential to defense production. Cancellation of the program would set back our mobilization preparedness effort with this industry by 12 to 18 months, if a mobilization occurred.

LOSS OF MOBILIZATION PREPAREDNESS LEAD TIME

Dismantling the DP Act priorities and allocations systems and other contingency programs would seriously hinder any mobilization effort during the first 12–18 months because of the lack of trained personnel and administrative systems between government and industry.

CRITICAL MATERIALS AND FORGING PRESSES

New contracts for the guayule project would be prevented and DOD's overall project would be in danger.

NATIONAL DEFENSE EXECUTIVE RESERVE

The 11 NDER units would have to be disbanded and the reserve membership terminated by the department and agencies with the resulting loss of talent and experience necessary for adequate mobilization preparedness.

Changes in Existing Law

In the opinion of the Committee, it is necessary to dispense with the requirements of Section 4 of Rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate.

U.S. Congress,
Congressional Budget Office,
Washington, D.C., March 23, 1983.

Hon. Jake Garn,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 855, a bill extending by five years the

expiration date of the Defense Production Act of 1950, as ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on March 22, 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 855.

2. Bill title: Defense Producton Act Amendments of 1983.

3. Bill status: As ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on March 22, 1983.

4. Bill purpose: This bill amends Title VII of the Defense Production Act of 1950 by changing the expiration date from March 31, 1983 to March 31, 1988. The Act authorizes the following programs:

Industrial defense mobilization activities of the Department of Commerce;

Certain emergency preparedness activities funded in the Federal Emergency Management Agency;

The administration and disposal of inventory of materials procured under Section 303 of the Defense Production Act. This is funded within the General Services Administration under the Federal Property Resources accounts; and

The stimulation of domestic industries to provide U.S. production capability for key defense materials.

5. Estimated cost to the Federal Government: The bill's cost impact is about $0.5 million in estimated authorization and estimated outlays for the remainder of fiscal year 1983. For the five-year period covered by the extension, estimated authorizations are approximately $1.7 billion with associated outlays estimated to be slightly more than $0.1 billion. These costs fall within budget functions 050 and 370.

[By fiscal year, in millions of dollars]

	1983	1984	1985	1986	1987	1988
Extension of termination date to Mar. 31, 1988:						
Budget function 370:						
Estimated authorizations	(1)	1	1	1	1	1
Estimated outlays	(1)	1	1	1	1	1
Budget function 050:						
Estimated authorizations	(1)	200	300	400	500	250
Estimated outlays	(1)	(1)	(1)	(1)	29	72

[1] Less than $500,000.

BASIS FOR ESTIMATE

This estimate assumes that the full amount of authorizations provided in this bill will be appropriated prior to each fiscal year.

This estimate for the cost of extending the existing provisions of the Defense Production Act is based on the Administration's plans for 1983 through 1988. These would require slightly more than $1 million for the Department of Commerce mobilization activities and approxi-

mately $0.2 million for the activities carried out by the Federal Emergency Management Agency for each fiscal year of the extension. No programs are planned for the General Services Administration. For the first time, the Administration has requested funds for expanding the use of Defense Production Act authority. The Administration has requested $200 million in 1984 for Defense Production Act Purchases. The Administration budget plan for 1985–1987 assumes an increase of budget authority in this account to $500 million by 1987. This funding would be used for purchases of strategic parts and materials from domestic producers. Under the Administration's assumptions, the average contract is expected to cover a period of ten years, with no estimated outlays in the first three years and outlays equal to one-seventh the total amount of the contract in each of the remaining seven years of the contract. The authorizations under the Defense Production Act for these agencies and the DoD are broad, however, and in the event of a major change in policy or plan, the budget impact of this bill could vary widely.

6. Estimate cost to State and local governments: None.
7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Barbara M. Hollinshead.
10. Estimate approved by:

C. G. Nuckols,
(For James L. Blum,
Assistant Director for Budget Analysis.)

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